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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/579,266 | 03/05/2007 | Valerie Smits | F-889 (31223.0121) | 1309 |

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| EXAMINER | |
|---|---|
| ROGERS, MARTIN K | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1791 | |

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|---|---|
| 08/31/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/579,266 | SMITS, VALERIE | |
| | Examiner | Art Unit | |
| | MARTIN ROGERS | 1791 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *29 June 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *11-19 and 22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-29 and 22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

**DETAILED ACTION**

In view of the Appeal Brief filed on 6/29/10, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Richard Crispino/
Supervisory Patent Examiner, Art Unit 1791.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 11-19 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Isao (Japanese Kokai 2002-275330 already of record) with Oh et al. (USP 6506919) used to show inherency.

In regards to claim 11, Isao discloses a method for the production of a hollow article comprising providing a polypropylene polymer having a melt flow index between 0.5 and 50 g/10 minutes produced by the polymerization of propylene in the presence of a metallocene catalyst having either C1 or C2 symmetry (Formula 2, [0009], and [0027]), subjecting the propylene polymer to an injection-stretch-blow molding operation to mold said polymer into a hollow article having walls formed of the polymer ([0001] and [0002]) to form a container product ([0002]). Isao does not expressly provide any examples in which an isotactic polymer within the required range is produced. However, the tacticity of the polymer is governed by the catalyst used to create it. Therefore, because Isao discloses that the disclosed catalysts create isotactic polymers ([0096] and [0097]), if the catalysts of Isao were used to create a polymer with an MFI within the range required by Applicant (as disclosed by Isao on [0006]), this polymer would also be isotactic. Oh shows in Column 1, lines 54-55 that the catalyst being used controls the tacticity of the polymer (Column 1, lines 54-55).

In any event, because Isao discloses creating isotactic polymers is many examples ([0096] and [0097]), and because Isao discloses creating polymers which are

within Applicant's required MFI range ([0006]),one of ordinary skill would have found it obvious to also make isotactic polymers within Applicant's claimed range.

It is the examiner's position that because all of the positively recited process steps are met by the disclosure of Isao, the product produced by these steps will be expected to have the same properties being required by the claims when compared to a Zeigler Natta catalyst system.

In regards to claim 12, Isao further discloses that the catalyst have the required molecular structure (Formula 2 and [0009]).

In regards to claims 13-15, Isao further discloses that the polypropylene include 0 to 5 weight percent ethylene ([0006] and [0012]).

In regards to claim 16, Isao further discloses that the transmission metal be selected from the fourth column of the periodic table ([0009]).

In regards to claims 17-19, Isao further discloses that the catalyst component be isopropylidene-(3-tert-butyl-5-methyl-cyclopentadienyl)(fluorenyl) zirconium dichloride (Formula 2 and [0009]).

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Isao as applied to claim 11 above, and further in view of Valyi (USP 4308086) and Dickson et al. (USP 4079104).

In regards to claim 22, Isao discloses molding the parison, reheating it, and then stretch blow molding ([0002]), but is silent as to the geometry of the injection mold used and how the parison is reheated.

Valyi discloses that it is well known in the art to injection mold parisons in a multicavity mold for the benefit of reducing the hazard of deflecting the mold support structure (Column 11, lines 29-30).

Dickson discloses that it is well known to heat parisons with reflected radiant heat (Figure 1: 60, 62, 64, 66). Note that because the heating and blow molding are performed using the same parison support (Column 4, lines 2-3), heater and blow mold are part of the same molding apparatus.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the blow molding process of Isao with the multicavity parison mold disclosed by Valyi and the heating method of Dickson necause Valyi and Dickson disclose well known methods of accomplishing the steps required by Isao.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARTIN ROGERS whose telephone number is 571-

270-7002. The examiner can normally be reached on Monday through Thursday, 7:30 to 5:00, and every other Friday, 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Martin Rogers/

/Richard Crispino/
Supervisory Patent Examiner, Art Unit 1791